

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2018-130-E**

**IN RE:**

**Jonquil Irwin,**  
**Complainant/Petitioner,**

**v.**

**Duke Energy Progress, LLC,**  
**Defendant/Respondent.**

**Duke Energy Progress, LLC's**  
**Motion to Dismiss**

Pursuant to S.C. Code Ann. § 58-27-1990, S.C. Code Ann. Regs. 103-829 and 103-352, and applicable South Carolina law, respondent, Duke Energy Progress, LLC (“DEP” or the “Company”) hereby moves the Public Service Commission of South Carolina (“Commission”) to dismiss the above-captioned matter on the merits because it fails to adequately allege any violation of an applicable statute or regulation with respect to DEP’s handling of Complainant’s account, and a hearing in this case is not necessary for the protection of substantial rights. The Company also requests that the filing deadlines for all parties and the hearing date be held in abeyance until this motion is resolved. In support of its motion, DEP shows the following:

**BACKGROUND**

Service at Complainant’s address was originally established on December 20, 2016 in the name of Joshua Jones with Complainant, who was a member of the household, listed as an

authorized user on the account at the service address.<sup>1</sup> Service at the address was disconnected for non-payment about seven months later on July 18, 2017.

On August 2, 2017, Brendon Andrews contacted DEP to inquire about having service at the address reconnected in his name and what the deposit amount would be. On August 7, 2017, Vanessa Lantz contacted DEP to inquire about having service at the address reconnected in her name and what the deposit amount would be. Ms. Lantz was informed that a notarized lease agreement would be required to establish service in her name. Mr. Andrews and Ms. Lantz did not follow up with DEP to submit an application for electric service at this location.

On August 15, 2017, Complainant contacted DEP and applied for electric service at this location in her name. Complainant was advised that DEP would accept \$1,224.79 upfront to reconnect service at this location, which included a charge-off balance from Complainant's previous address.<sup>2</sup> On August 15, 2017, a representative of the Office of Regulatory Staff ("ORS") contacted DEP to inquire as to what would be needed to reconnect service for Complainant. DEP offered to accept the deposit of \$555.00 to re-establish service with an additional payment of \$669.79 due by September 1, 2017, and the remaining past due balance of \$666.12 to be set-up on a Long-Term Payment Plan. On the same day, Ms. Irwin made the payment of \$555.00, and service was reconnected on August 16, 2017.

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<sup>1</sup> The service address is 1064 Cherryvale Drive, Sumter, South Carolina. The facts set forth in this motion are supported by the hereto appended affidavit of Kriss Rodgers, Consumer Affairs Specialist at DEP. *See* Exhibit A.

<sup>2</sup> The total amount for which Complainant was then in arrears to DEP was \$1,932.76 (the charge-off balance of \$596.85 of Complainant from a previous address, plus a past due balance of \$1,335.91 of Complainant at the service address). Additionally, DEP sought a deposit of \$555.00 to reconnect service. The \$1,224.79 for which DEP proposed to reconnect service for Complainant included \$669.79 of the total past due balance for Complainant at the service address (\$1,335.91) and a deposit of \$555.00; the remaining \$666.12 that was past due was to be set up on a Long-Term Payment Plan. *See* Exhibit B.

On August 21, 2017, a Long-Term Payment Plan was established with Complainant for the total balance due of \$1,932.76. Under the terms of the Long-Term Payment Plan, the amount would be billed as 17 installments at \$107.00 a month with a final installment of \$113.76.

DEP revised the terms of the Long-Term Payment Plan with Complainant on November 13, 2017 and on January 22, 2018, providing Complainant additional time to pay the account balance and avoid disconnection for non-payment. On November 13, 2017, Complainant contacted ORS requesting assistance with establishing a payment arrangement on a final notice of \$343.01 that expired that day. Complainant proposed to pay the final notice amount on November 17, 2017, and DEP agreed once again to revise the terms of the Long-Term Payment Plan and provide Complainant additional time to pay the account balance. On January 22, 2018, a representative of ORS contacted DEP to advise that Complainant asked to pay the new final notice amount of \$713.30—which had previously expired January 12, 2018—on January 26, 2018. DEP again agreed to revise the terms of the Long-Term Payment and extended the balance of \$713.30 to January 26, 2018 as requested.

On April 16, 2018, a representative of ORS contacted DEP to advise that Complainant had another final notice amount of \$352.09 that expired on April 13, 2018, that service was currently scheduled for a non-pay disconnect, and that Complainant asked to pay the final notice amount on April 20, 2018. Also on April 16, 2018, Ms. Irwin filed this Complaint.

DEP has had approximately 13 conversations with Complainant since establishing service at this location. Consistent with S.C Code Ann. Regs. 103-352(c), which requires utilities to offer a payment plan of up to six months that will allow customers to bring their account current, DEP has set up three payment arrangements with the Office of Regulatory Staff at the request of Complainant, and none of these arrangements was satisfied. Exhibit B to this

motion shows the activity associated with Mr. Irwin's account. Ms. Irwin currently has an unpaid balance of \$964.78, \$691.19 of which is past due, and \$1,076.76 remains due as part of her Long-Term Payment Plan.

### **ARGUMENT**

DEP requests that the Complaint be dismissed pursuant to S.C. Code Ann. § 58-27-1990, which allows the Commission to dismiss a complaint if it determines that "a hearing is not necessary in the public interest or for the protection of substantial rights." Ms. Irwin fails to allege any violation of an applicable statute or regulation with respect to DEP's billing or handling of her account. S.C. Code Regs. 103-342(k) provides that "[n]o electrical utility shall be required to furnish its service or to continue its service to any applicant who, at the time of such application, is indebted or any member of his household is indebted, under an undisputed bill to such electrical utility for service previously furnished such applicant or furnished any other member of the applicant's household." In this case, consistent with the aforementioned regulation, Complainant is indebted for electric service provided to her at both her previous service address and at her current service address. DEP has nevertheless been responsive and flexible with respect to Ms. Irwin's requests to provide payment arrangements. Furthermore, Ms. Irwin's billing records show that the Company is charging the appropriate tariff rate approved by the Commission for the registered usage. DEP respectfully requests that the Complaint be dismissed because it fails to adequately allege any violation of an applicable statute or regulation with respect to DEP's handling of Ms. Irwin's account. Consistent with S.C. Code Ann. § 58-27-1990, a hearing is not necessary for the protection of substantial rights in this case.

## CONCLUSION

DEP has worked diligently to assist Ms. Irwin with payment arrangements, and the account is on an active Long-Term Payment Plan. Complainant fails to adequately allege any violation of an applicable statute or regulation with respect to DEP's handling of Complainant's account, and a hearing in this case is not necessary for the protection of substantial rights. Therefore, this matter should be dismissed.

WHEREFORE, DEP moves the Commission to dismiss the Complaint with prejudice, hold the testimony deadlines for all parties and the hearing in abeyance pending resolution of this motion, and requests such other relief as the Commission deems just and proper.

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and

s/Samuel J. Wellborn  
 Frank R. Ellerbe, III (SC Bar No. 01866)  
 Samuel J. Wellborn (SC Bar No. 101979)  
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Attorneys for Duke Energy Progress, LLC

Columbia, South Carolina  
 May 1, 2018

Exhibit A

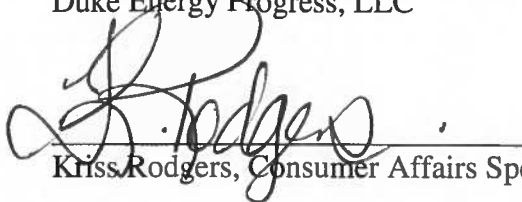
**AFFIDAVIT**

I, Kriss Rodgers, am Consumer Affairs Specialist for Duke Energy Progress, LLC. I am responsible for responding to customer inquiries, including those directed to the South Carolina Office of Regulatory Staff ("ORS"). I have reviewed the documents received and maintained in the ordinary course of business by Duke Energy Progress for Ms. Wilson, and I am familiar with the records of Duke Energy Progress that pertain to Ms. Wilson's electric service account.

I am personally knowledgeable as to the records and information discussed in the attached motion to dismiss, I know them to be true of my own knowledge or I have gained knowledge of them from the records of Duke Energy Progress, which are maintained in the ordinary course of business by Duke Energy Progress.

I, Kriss Rodgers, first being duly sworn upon oath, depose and say that I am authorized to represent Duke Energy Progress, that I have read the above motion to dismiss and know the contents; that the contents are true and correct to the best of my knowledge and belief.

Duke Energy Progress, LLC



Kriss Rodgers, Consumer Affairs Specialist

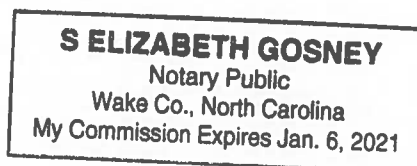
Subscribed and sworn to before me this  
 day of May, 2018

Print Notary Name:

Notary Public for

My Commission Expires

S. Elizabeth Gosney  
NC, Wake County  
Jan 6, 2021



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**EXHIBIT B**  
**BILLING AND PAYMENT HISTORY**

**CONFIDENTIAL, CUSTOMER INFORMATION**  
**FILED UNDER SEAL**

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**CERTIFICATE OF SERVICE**

This is to certify that I, Toni C. Hawkins, a paralegal with the law firm of Sowell Gray Robinson Stepp & Laffitte, LLC, have this day caused to be served upon the person(s) named below **Duke Energy Progress, LLC's Motion to Dismiss** in the foregoing matter by placing a copy of same in the U.S. Mail and/or via electronic mail addressed as follows:

Jonquil Irwin  
1064 Cherryvale Drive  
Sumter, SC 29154  
[Jonquil317@yahoo.com](mailto:Jonquil317@yahoo.com)

C. Lessie Hammonds, Esquire  
Office of Regulatory Staff  
1401 Main Street, Suite 900  
Columbia, SC 29201  
[lhammon@regstaff.sc.gov](mailto:lhammon@regstaff.sc.gov)

Dated at Columbia, South Carolina this 1<sup>st</sup> day of May, 2018.

